Defendants.

#### IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

ARISTA RECORDS LLC, a Delaware limited liability company; ATLANTIC RECORDING CORPORATION, a Delaware corporation; CAPITOL RECORDS, INC., a Delaware corporation; ELEKTRA ENTERTAINMENT GROUP INC., a Delaware corporation; INTERSCOPE RECORDS, a California general partnership; LOUD RECORDS LLC, a Delaware corporation; MOTOWN RECORD COMPANY, L.P., a California limited partnership; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS, INC., a Delaware corporation; WARNER BROS. RECORDS INC., a Delaware corporation; and ZOMBA RECORDING LLC, a Delaware limited liability company,	CIVIL ACTION No
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vs.	)
DOES 1 - 3,	Ó

#### COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiffs, ARISTA RECORDS LLC; ATLANTIC RECORDING CORPORATION; CAPITOL RECORDS, INC.; ELEKTRA ENTERTAINMENT GROUP INC.; INTERSCOPE RECORDS; LOUD RECORDS LLC; MOTOWN RECORD COMPANY, L.P.; SONY BMG MUSIC ENTERTAINMENT; UMG RECORDINGS, INC.; WARNER BROS. RECORDS INC.; and ZOMBA RECORDING LLC, by their attorneys, for their complaint against Defendant 165.106.208.67 2007-01-23 17:26:08 Est, allege as follows:

#### NATURE OF THE ACTION

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. §101 et seq.).

#### JURISDICTION AND VENUE

- 2. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
- 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the true identity of each Defendant is unknown to Plaintiffs at this time, on information and belief, each Defendant may be found in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District. On information and belief, personal jurisdiction in this District is proper because each Defendant, without consent or permission of the copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the United States, including this one. In addition, each Defendant contracted with an Internet Service Provider ("ISP") found in this District to provide each Defendant with the access to the Internet which facilitated Defendants' infringing activities.

#### **PARTIES**

4. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

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- Plaintiff Atlantic Recording Corporation is a corporation duly organized and 5. existing under the laws of the State of Delaware, with its principal place of business in the State of New York.
- 6. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.
- Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and 7. existing under the laws of the State of Delaware, with its principal place of business in the State of New York.
- Plaintiff Interscope Records is a California general partnership, with its principal 8. place of business in the State of California.
- Plaintiff Loud Records LLC is a corporation duly organized and existing under the 9. laws of the State of Delaware, with its principal place of business in the State of New York.
- Plaintiff Motown Record Company, L.P. is a limited partnership duly organized 10. and existing under the laws of the State of California, with its principal place of business in the State of California.
- Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general 11. partnership, with its principal place of business in the State of New York.
- Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under 12. the laws of the State of Delaware, with its principal place of business in the State of California.
- Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing 13. under the laws of the State of Delaware, with its principal place of business in the State of California.

- 14. Plaintiff ZOMBA RECORDING LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.
- 15. The true names and capacities of Defendants are unknown to Plaintiffs at this time. Each Defendant is known to Plaintiffs only by the Internet Protocol ("IP") address assigned to that Defendant by his or her ISP on the date and time of that Defendant's infringing activity.

  See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of each Defendant's true name.
- 16. Although Plaintiffs do not know the true names of Defendants, each Defendant is alleged to have committed violations of the same law (e.g., copyright law), by committing the same acts (e.g., the downloading and distribution of copyrighted sound recordings owned by Plaintiffs), and by using the same means (e.g., a file-sharing network) that each Defendant accessed via the same ISP. Accordingly, Plaintiffs' right to relief arises out of the same series of transactions or occurrences, and there are questions of law or fact common to all Defendants such that joinder is warranted and appropriate here.

#### COUNT I INFRINGEMENT OF COPYRIGHTS

- 17. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.
- 18. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall

be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

- 19. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.
- Plaintiffs are informed and believe that each Defendant, without the permission or 20. consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies on a Defendant-by-Defendant basis (one Defendant per page) the IP address with the date and time of capture and a list of copyrighted recordings that each Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, each Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Each Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive rights under copyright. (In addition to the sound recordings listed for each Defendant on Exhibit A, Plaintiffs are informed and believe that each Defendant has, without the permission or consent of Plaintiffs, continuously downloaded and/or distributed to the public additional sound recordings owned by or exclusively licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are ongoing. Exhibit A includes the currently-known total number of audio files being distributed by each Defendant.)

- 21. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on each respective album cover of each of the sound recordings identified in Exhibit A. These notices of copyright appeared on published copies of each of the sound recordings identified in Exhibit A. These published copies were widely available, and each of the published copies of the sound recordings identified in Exhibit A was accessible by each Defendant.
- 22. Plaintiffs are informed and believe that the foregoing acts of infringement have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.
- 23. As a result of each Defendant's infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against each Defendant for each infringement by that Defendant of each copyrighted recording. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.
- 24. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief prohibiting each Defendant from further infringing Plaintiffs' copyrights, and ordering that each Defendant destroy all copies of copyrighted sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against each Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of

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Plaintiffs' ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (i.e., download) any of Plaintiffs' Recordings or to distribute (i.e., upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted

Recording pursuant to 17 U.S.C. § 504.

- 3. For Plaintiffs' costs in this action.
- 4. For Plaintiffs' reasonable attorneys' fees incurred herein.
- 5. For such other and further relief as the Court may deem just and proper.

DATED: November 28, 2007

Robert S. Goldman (DE Bar No. 2508)

Lisa C. McLaughlin (DE Bar No. 3113)

PHILLIPS, GOLDMAN & SPENCE, P.A.

1200 North Broom Street

Wilmington, Delaware 19806

(New Castle Co.)

Telephone: 302-655-4200

Telecopier: 302-655-4210

Attorneys for Plaintiffs ARISTA RECORDS LLC; ATLANTIC RECORDING CORPORATION;

CAPITOL RECORDS, INC.; ELEKTRA

ENTERTAINMENT GROUP INC.;

INTERSCOPE RECORDS; LOUD

RECORDS LLC; MOTOWN RECORD

COMPANY, L.P.; SONY BMG MUSIC

ENTERTAINMENT; UMG

RECORDINGS, INC.; WARNER BROS.

RECORDS INC.; and ZOMBA

RECORDING LLC

## EXHIBIT A DOE LIST

Doe # 1

**IP Address:** 165.106.153.123 2007-02-25 16:24:35 EST

Doe # 2

**IP Address:** 165.106.208.67 2007-01-23 17:26:08 EST

Doe # 3

**IP Address:** 165.106.221.118 2007-05-16 20:34:14 EDT

#### **EXHIBIT A**

**CASE ID#** 119678477 **IP Address:** 165.106.153.123 2007-02-25 16:24:35 EST

**Total Audio Files: 1165** P2P Network: Gnutella

Copyright Owner	Artist	Recording Title	Album Title	<u>SR#</u>
Atlantic Recording Corporation	Sugar Ray	Fly	Floored	208-769
Interscope Records	No Doubt	Just A Girl	Tragic Kingdom	206-724
Warner Bros. Records Inc.	Goo Goo Dolls	Iris	Dizzy Up the Girl	246-538
Atlantic Recording Corporation	Jewel	You Were Meant for Me	Pieces of You	198-481
UMG Recordings, Inc.	Vanessa Carlton	A Thousand Miles	A Thousand Miles (single)	306-656
UMG Recordings, Inc.	Aerosmith	Crazy	Get A Grip	153-061
UMG Recordings, Inc.	Nelly	Hot in Herre	Nellyville	315-537
Arista Records LLC	Dido	Thank You	No Angel	289-904
UMG Recordings, Inc.	Aqua	Barbie Girl	Barbie Girl (single)	240-665
Motown Record Company, L.P.	98 Degrees	Because Of You	98 Degrees & Rising	237-315

## **EXHIBIT A**

**IP Address:** 165.106.208.67 2007-01-23 17:26:08 EST

**CASE ID#** 115738761

P2P Network: AresWarez

**Total Audio Files: 762** 

Copyright Owner	Artist	Recording Title	Album Title	<u>SR#</u>
Loud Records LLC	Wu-Tang Clan	Gravel Pit	The W	298-336
Elektra Entertainment Group Inc.	Tracy Chapman	Telling Stories	Telling Stories	278-226
SONY BMG MUSIC ENTERTAINMENT	James Taylor	Her Town Too	Her Town Too (single)	26-497
Elektra Entertainment Group Inc.	Tracy Chapman	All That You Have Is Your Soul	Cross Roads	110-722
Capitol Records, Inc.	Radiohead	Everything in Its Right Place	Kid A	289-381
Elektra Entertainment Group Inc.	Bjork	I've Seen It All	Selmasongs	267-232
Capitol Records, Inc.	Radiohead	2+2=5 (The Lukewarm.)	Hail to the Thief	SRu494-560
UMG Recordings, Inc.	U2	One	Achtung Baby	139-599

## **EXHIBIT A**

**IP Address:** 165.106.221.118 2007-05-16 20:34:14 EDT

**CASE ID#** 129369500

P2P Network: Gnutella

**Total Audio Files: 811** 

Copyright Owner	Artist	Recording Title	Album Title	SR#
UMG Recordings, Inc.	Nelly	Batter Up	Country Grammar	281-782
SONY BMG MUSIC ENTERTAINMENT	Michael Jackson	Beat It	Thriller	41-965
Zomba Recording LLC	311	Amber	From Chaos	301-893
Capitol Records, Inc.	Duran Duran	Rio	Rio	38-444
SONY BMG MUSIC ENTERTAINMENT	Oasis	Stop Crying Your Heart Out	Heathen Chemistry	317-091
UMG Recordings, Inc.	Kanye West	Workout Plan	College Dropout	347-391
UMG Recordings, Inc.	The Police	Message In A Bottle	Regatta De Blanc	13-166
Capitol Records, Inc.	Keith Urban	Somebody Like You	Golden Road	323-344
SONY BMG MUSIC ENTERTAINMENT	Oasis	Stand By Me	Be Here Now	243-629

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of

Court for the purpose of initiati.  I. (a) PLAINTIFFS ARISTA RECORDS LLC; A RECORDS, INC.; ELEKTR RECORDS; LOUD RECORD BMG MUSIC ENTERTAIN RECORDS INC.; and ZOME	TLANTIC RECORDIN A ENTERTAINMENT ( DS LLC; MOTOWN RE MENT; UMG RECORD	G CORPORATIO GROUP INC.; INT CORD COMPAN	N; CA TERSC IY, L.P	PITOL OPE .; SONY	DEFEND DOES 1 - County of R	DANTS 3 esidence (IN N LAND (	of First Listed D U.S. PLAINTIFF ( CONDEMNATION AND INVOLVED.	CASES ONLY) I CASES, USE TI	HE LOCA	TION
	(EXCEPT IN U.S. PLAINTIF	F CASES)	NY							
(c) Attorney's (Fire Robert S. Goldman Lisa C. McLaughlin Phillips, Goldman & Spence, 1200 North Broom Street Wilmington, Delaware 19806		Telephone: 30	2-655-4 2-655-4		Attorneys (In	f Known)	)			
II. BASIS OF JURISD		in One Box Only)	III.	CITIZENSI	HIP OF PE	RINCII	PAL PARTII	ES (Place an "	X" in One	Box for
☐ 1 U.S. Government Plaintiff ☐ 2 U.S. Government	3. Federal Question (U.S. Government Not a  1 4 Diversity (Indicate Citizenship of	Party)		(For Diversity Cas	ses Only) PTI atc □ 1	F <b>DE</b> F	Find the properties of Prince of Business In This	Plaintiff and One B cipal Place State	PTF □ 4	DEF □ 4
Defendant	in Item III)	rattes		Citizen of Anothe		-	corporated and Print of Business In Ano		□ 5	□ 5
				Citizen or Subject Foreign Country		□3 F	oreign Nation		□ 6	□ 6
IV. NATURE OF SUIT	·							·····		
CONTRACT		ORTS			E/PENALTY		KRUPTCY	OTHER S		
□ 110 Insurance □ 120 Marine □ 130 Miller Act □ 140 Negotiable Instrument □ 150 Recovery of Overpayment & Enforcement of Judgment □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loans (Excl. Veterans) □ 153 Recovery of Overpayment of Veteran's Benefits □ 160 Stockholders' Suits □ 190 Other Contract □ 195 Contract Product Liability □ 196 Franchise  REAL PROPERTY □ 210 Land Condemnation □ 220 Foreclosure □ 230 Rent Lease & Ejectment □ 240 Torts to Land □ 245 Tort Product Liability □ 290 All Other Real Property	PERSONAL INJURY  □ 310 Airplane □ 315 Airplane Product Liability □ 320 Assault, Libel & Slander □ 330 Federal Employers' Liability □ 340 Marine □ 345 Marine Product Liability □ 350 Motor Vehicle □ 355 Motor Vehicle □ 70duct Liability □ 360 Other Personal Injury CIVIL RIGHTS □ 441 Voting □ 442 Employment □ 443 Housing/ Accommodations □ 444 Welfare □ 445 Amer. w/Disabilities- Employment □ 446 Amer. w/Disabilities- Other □ 440 Other Civil Rights	PERSONAL INJ  362 Personal Inju Med. Malpra Med. Malpra Product Liab 365 Personal Inju Product Liab 368 Asbestos Per Injury Product Liability  PERSONAL PROI 370 Other Fraud 371 Truth in Lend 380 Other Person Property Dan Product Liab PRISONER PETT 510 Motions to V Sentence Habeas Cor 530 General 535 Death Penald 540 Mandamus 6 550 Civil Rights 555 Prison Cond	ry— actice ry— ility somal ct  PERTY  ling al mage nage vage rice ry cate pus:	□ 630 Liquor L □ 640 R.R. & 7 □ 650 Airline □ 660 Occupati Safety/I □ 690 Other ■ LAI □ 710 Fair Lab Act □ 720 Labor/M □ 730 Labor/M	od & Drug lated Seizure rty 21 USC 881 aws Fruck legs. ional Health  BOR or Standards igmt. Relations igmt. Reporting soure Act Labor Act thor Litigation et. Inc.	□ 423 W 28  PROPI ■ 820 Cc □ 830 Pc □ 840 To  SOCI  861 Bl □ 862 Bl □ 863 D 46 □ 864 St □ 865 RS  FEDER □ 870 To	ithdrawal USC 157  ERTY RIGHTS  ppyrights  atent	□ 400 State Reap □ 410 Antitrust □ 430 Banks and □ 450 Commerce □ 460 Deportatio □ 470 Racketeer □ Corrupt Or □ 480 Consumer □ 490 Cable/Sat □ 810 Selective S □ 850 Securities/ □ Exchange □ 875 Customer □ 12 USC 3 □ 891 Agricultur □ 892 Economic □ 893 Environme □ 893 Environme □ 894 Energy All □ 895 Freedom o □ Informatic □ 900 Appeal of □ Determina □ Equal Ac □ 950 Constitutic State Stat	Banking //ICC Rate n Influenced rganizatior Credit TV tervice Commodit Challenge 410 al Acts Stabilizationtal Matte location Act f m Act Fee attion Unde ccess to Just mailty of utes	es/etc.  I and us  dies/  on Act ers  ct
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VI. CAUSE OF ACT	17 U.S.C. §	ril Statute under wh 501 et seq.				ictional s	statutes unless d	liversity)		
	Brief descriptio	n of the cause: O	opyri	ght infring	ement					
VII. REQUESTED IN COMPLAINT	UNDER F.R.C.F			DEMAND tutory damages;			YES only if den  DEMAND:		aint I No	
VIII. RELATED CAS IF ANY	E(S) (See instruc	otions) JUDGE	D	OCKET NUMI	BER					
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United States District Court for the District of Delaware

Civil Action No.
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# **ACKNOWLEDGMENT** OF RECEIPT FOR AO FORM 85

# NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RE	CEIPT OF COPIES OF AO FORM 85.
(Date forms issued)	(Signature of Party or their Representative)
	(Printed name of Party or their Representative)
Note: Completed receipt will be file	d in the Civil Action